



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

Finance, Taxation & Economic Development Committee

Douglas Cole, Chair
Karla Bell, Vice-chair

May 11, 2017

Ohio Statehouse
Room 115

OCMC Finance, Taxation, and Economic Development Committee

Chair Mr. Douglas Cole
Vice-chair Ms. Karla Bell
 Mr. Herb Asher
 Rep. Kathleen Clyde
 Ms. Jo Ann Davidson
 Rep. Jonathan Dever
 Mr. Fred Mills
 Sen. Bob Peterson
 Sen. Charleta Tavares
 Ms. Kathleen Trafford



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION
FINANCE, TAXATION, AND ECONOMIC DEVELOPMENT COMMITTEE

THURSDAY, MAY 11, 2017
10:00 A.M.
OHIO STATEHOUSE ROOM 115

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of Minutes
 - Meeting of April 13, 2017
[Draft Minutes – attached]
- IV. Next Steps
 - The committee chair will lead discussion regarding the committee’s informal recommendations for the sections remaining for review.
[Memorandum by Shari L. O’Neill titled “Proposals Regarding the Role of Treasurer” – attached]
[Memorandum by Shari L. O’Neill titled “Status of the Committee’s Review”]
[Planning Worksheet – attached]
- V. Old Business
- VI. New Business
- VII. Public Comment
- VIII. Adjourn

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OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MINUTES OF THE FINANCE, TAXATION, AND ECONOMIC DEVELOPMENT COMMITTEE

FOR THE MEETING HELD
THURSDAY, APRIL 13, 2017

Call to Order:

Chair Douglas Cole called the meeting of the Finance, Taxation, and Economic Development Committee to order at 2:29 p.m.

Members Present:

A quorum was present with Chair Cole and committee members Asher, Clyde, Davidson, Dever, Mills, and Trafford in attendance.

Approval of Minutes:

The minutes of the November 10, 2016 meeting of the committee were approved.

Discussion:

Chair Cole announced that an issue for the committee to determine is whether to recommend a new constitutional provision that would assign debt reporting functions to the treasurer. He said because the committee has recommended the repeal of the sinking fund provisions, specifically the requirement there be a sinking fund commission charged with the responsibility of providing a report regarding state debt, there may be a consensus that a new provision constitutionalizing the role of the treasurer in providing the report. He said the treasurer's office has recommended such a provision, with the Office of Budget and Management (OBM) agreeing that there may be a need for a modernized provision assigning debt reporting functions to the treasurer.

Committee member Jo Ann Davidson commented that Ohio has had a strong reputation for managing its debt well, adding it would be better to deal with the debt reporting duty in a constitutional amendment rather than by statute. She said she would support a constitutional amendment assigning that role, but that the provision should include more detailed requirements regarding what needs to be reported in order to be sure the public has access to all of the relevant

issues. As a model, she said the committee could refer to suggestions by OBM Director Tim Keen.

Committee member Kathleen Trafford said a constitutional provision would provide a comfort level since the committee has recommended getting rid of the sinking fund.

Committee member Herb Asher agreed, saying the issue of public debt rises to the constitutional level.

Ms. Davidson noted that there are other restrictions in the constitution based on the level of debt, cautioning if the provision is not specific enough it could be misinterpreted.

Chair Cole asked whether anyone on the committee opposed the concept of proposing constitutional language that would create a debt-reporting role for the treasurer, and there were no objections. He then asked staff to assist in drafting proposed language for the committee's next meeting that would constitutionalize the debt reporting functions for the state treasurer, as opposed to the process outlined in Article VIII, Sections 7 through 11.

Chair Cole then turned the committee's attention to possible next steps for consideration, indicating that the committee had not resolved what to do with Article VIII, Sections 4, 5, and 6. He said Sections 4 and 5 prohibit the state from giving credit to or assuming debt from private corporations, while Section 6 prohibits political subdivisions from joint stock ownership, lending in credit, in relation to private corporations.

Reiterating that he has provided legal representation to JobsOhio in the past, he asked whether the committee would like to review Sections 4, 5, and 6, indicating there is a large body of case law built up around those provisions, and that the committee could take on task of rebalancing that. He said, if so, a first step would be to identify problems with the current structure, and the committee could hear from representatives of Progress Ohio in relation to litigation against JobsOhio. He said the topic is complex and would take some time.

Ms. Trafford asked whether anyone is aware that state officials, or the Municipal League has expressed a problem with those provisions. Chair Cole said he has reached out to see if anyone in state government wants to present to the committee, but has not had success in identifying anyone. He noted an early presentation to the committee from the Port Authority, saying he is not sure if that organization has a view or recommendation.

Ms. Davidson said she recalled the Port Authority had recommended a system that would provide it with more flexibility, allowing it to expand its activities.

Ms. Trafford said the Port Authority concern falls in the economic development area, where this constraint would be most felt. She said Article VIII, Section 13 exempts programs from the operation of Sections 4 and 6. Chair Cole asked staff to locate and provide that previous testimony for the committee's review. He continued that the committee has not addressed Section 13 either, offering to arrange for a speaker in relation to the operation of Sections 4, 6, and 13. He said this would allow the committee to make a recommendation based on

information. He suggested Greg Stype, state bond counsel who spoke to the committee on previous occasions, might be able to speak to this issue.

Chair Cole said this topic would wrap up the committee's work on Article VIII, and asked what the committee's views were on considering Article XII, regarding finance and taxation, and Article XIII, regarding corporations. He said the committee's homework would be to review the articles and consider speakers who might like to talk to the committee about issues raised by those sections. He commented that he has not heard from anyone with potential changes to those articles.

Ms. Trafford noted that Sections 14 through 17 of Article VIII may not be necessary. Chair Cole said Section 17 is the debt limit, while Sections 14 and 15 relate to housing. He said the committee may need a recommendation regarding those sections. He asked staff to prepare a brief memorandum reviewing the committee's prior work on the various sections and topics so that the committee will be able to review the status of its work at the next meeting.

Adjournment:

With no further business to come before the committee, the meeting was adjourned at 2:51 p.m.

Approval:

The minutes of the April 13, 2017 meeting of the Finance, Taxation, and Economic Development Committee were approved at the May 11, 2017 meeting of the committee.

Douglas R. Cole, Chair

Karla L. Bell, Vice-chair

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OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MEMORANDUM

TO: Chair Douglas Cole, Vice-chair Karla Bell,
and Members of the Finance, Taxation, and
Economic Development Committee

FROM: Shari L. O'Neill, Counsel to the Commission

DATE: May 11, 2017

RE: Proposals Regarding the Role of Treasurer

This memorandum is being provided to assist the committee in its discussion and possible recommendation regarding constitutionalizing the role of the treasurer of state.

Current Provision

As the committee knows, Article VIII, Section 9 requires the Commissioners of the Sinking Fund regularly to provide a report documenting state debt. That section provides:

The commissioners of the sinking fund shall, immediately preceding each regular session of the general assembly, make an estimate of the probable amount of the fund, provided for in the seventh section of this article, from all sources except from taxation, and report the same, together with all their proceedings relative to said fund and the public debt, to the governor, who shall transmit the same with his regular message, to the general assembly; and the general assembly shall make all necessary provision for raising and disbursing said sinking fund, in pursuance of the provisions of this article.

The Constitutional Modernization Commission has adopted a report and recommendation by this committee proposing to repeal all constitutional sections, including Article VIII, Section 9, related to the Sinking Fund.

The Committee's Review of the Question

With the elimination of the Sinking Fund, the Sinking Fund Commission, and all constitutional duties related to that group, there is support for the concept that the duty of the treasurer to provide a report relating to state debt should be retained in the constitution. In regard to this issue, the committee has heard from several speakers.

Metcalf Presentations

On May 8, 2014, Seth Metcalf, deputy treasurer and executive counsel, presented to the committee on Article VIII, advocating several ideas for modernizing the article. Noting that the treasurer currently manages all modern functions of the sinking fund commission, he emphasized that if the sinking fund provisions are repealed, there arises a need to assign the duty of payment or oversight of debt to the treasurer.

On March 12, 2015, Mr. Metcalf again appeared before the committee to address additional topics related to the need to modernize Article VIII. In doing so, he reiterated that repealing the sinking fund provisions gives rise to a need for a new provision that would assign sinking fund commission administrative functions to the treasurer.

On March 10, 2016, Mr. Metcalf testified to the committee in relation to the committee's recommendation to add a new section that proposed to allow the General Assembly to reauthorize all lease-appropriation revenue bonds previously issued under the authority of Section 2i as general obligation debt. In the course of his remarks on that topic, Mr. Metcalf proposed that the constitution designate the treasurer as the public official charged with paying principal and interest on state debt and ensure that the treasurer administers the direct obligations of the state. He added that any new constitutional authority for general obligation debt should include a constitutional process for the approval of new general obligation debt that involves the legislature, the auditor of state, the attorney general, the governor, the treasurer, and the secretary of state, for the reason that these offices are directly accountable to Ohio taxpayers. According to Mr. Metcalf, the current statutory process dilutes the constitution's original checks and balances by assigning a vote on the issuance of general obligation debt to the director of OBM, a non-elected office. Based on that position, Mr. Metcalf proposed a new section that would state:

The issuance of all direct obligations of the state as defined in division (E)(3) of section 17 of this article shall be authorized by the General Assembly and a majority of the governor, treasurer of state, auditor of state, secretary of state, and attorney general, and it shall be the duty of the treasurer of state to issue, maintain, and ensure the timely payment of interest and redemption of principal on all such direct obligations. The treasurer of state shall annually make a full and detailed report to the governor and General Assembly of the authorized, issued, matured, and outstanding direct obligations of the state as defined in division (E)(3) of section 17 of this article.

Keen Presentation

On October 8, 2015, Timothy S. Keen, director of the Office of Budget and Management (OBM), presented to the committee on Article VIII. As a part of his presentation, Mr. Keen proposed that the committee recommend repeal of Article VIII, Sections 7 through 11 as obsolete because all of the functions historically performed by the commissioners of the sinking fund are now performed by other state entities. However, Mr. Keen recommended that, if the committee were to recommend elimination of the sinking fund and the sinking fund commission, it should consider replacing those sections with a provision that assigns necessary, ongoing debt-reporting functions to the treasurer of state.

Azoff Presentations

On April 14, 2016, Jonathan Azoff, director of the Office of Debt Management and senior counsel to the Ohio Treasurer of State, presented to the committee on the role of the treasurer in relation to state debt.

Mr. Azoff described that the treasurer oversees the debt issuance process for programs for which the treasurer serves as issuer; ensures the timely payment on the state's outstanding debt; and produces several legally-required reports, including the Commissioners of the Sinking Fund Semi-Annual Report.

In addition to recommending the repeal of Sections 7 through 11 of Article VIII, Mr. Azoff proposed replacement language that would clarify who should perform the duties previously assigned to the sinking fund commission.

In this regard, Mr. Azoff described that his office performs the ongoing roles and responsibilities of the sinking fund commission, including paying debt service on the state's general obligation debt and fulfilling the treasurer's reporting role. He noted that the Office of Debt Management's operating expenses are funded through the commissioners of the sinking fund line item in the treasurer's operating budget. As a result, Mr. Azoff recommended that the treasurer retain constitutional authorization for the performance of the sinking fund commissioners' duties.

On June 9, 2016, Mr. Azoff again presented to the committee, focusing on a proposal to adopt a constitutional provision giving the Ohio treasurer the responsibility of reporting on state debt. Mr. Azoff said the treasurer's office is the issuer of debt, also serving as a conduit issuer for the state's federal and state infrastructure bank programs, as well as performing certain duties as a member of the Ohio Public Facilities Commission.

Mr. Azoff said the treasurer's office additionally ensures the timely payment of the state's approximately \$11 billion in outstanding debt, acting as paying agent and bond registrar for all general obligation debt and coordinating debt payments via corporate bond trustees for revenue and special obligation debt. He added that the treasurer's office calculates payments on state-issued swap agreements and evaluates remarketing agent performance on the state's outstanding variable rate obligations.

Describing the treasurer's function in relation to reporting debt, Mr. Azoff said there is significant overlap between the treasurer's debt-related duties and responsibilities delegated to the commissioners of the sinking fund. He noted that while the commissioners of the sinking fund have not met since 2008, the sinking fund commission's constitutionally-delegated duties are being performed. Mr. Azoff said for at least the last 47 years, the treasurer has prepared the semi-annual report, distributing it twice a year to the governor and all members of the General Assembly. He said the report details general obligation bond activity for the preceding six-month period, providing extensive financial information regarding the state's ten types of outstanding general obligation bonds.

In addition to that reporting function, Mr. Azoff described that the treasurer also fulfills the sinking fund commission's duty to pay interest and redeem the principal on the state's general obligation debt, and does so in the capacity of the "Commissioners of the Sinking Fund." He said the "Commissioners of the Sinking Fund" receive appropriations in every state operating budget for this purpose, noting that in fiscal year 2016, the "Commissioners of the Sinking Fund" were appropriated more than \$1.1 billion. He said the Office of Debt Management at the treasurer's office transacts business using these funds as the "Commissioners of the Sinking Fund" in the state's accounting system, timely paying the state's outstanding debt from the designated bond service funds.

Mr. Azoff emphasized the treasurer does not have independent legal authority to perform many of these tasks, relying instead on the legal framework set out in the constitution. He said if Sections 7 through 11 are repealed, a replacement will be required.

Mr. Azoff proposed a constitutional amendment that would require the state treasurer to report on the state's debt. He said creating such an amendment would continue the historical tradition of the semi-annual report, and retain an important constitutional principle requiring publicly-elected officials to demonstrate accountability for the money the state borrows, which taxpayers are ultimately responsible to repay.

Mr. Azoff said the committee also should recommend an amendment that would expressly charge the treasurer's office with the responsibility for paying the state debt. He emphasized the importance of continuing the practice of holding statewide elected officials accountable in the constitution for the management, reporting, and payment of the state's debt.

Kauffman Presentation

On April 14, 2016, Kurt Kauffman, acting assistant director of the Office of Budget and Management (OBM), appeared before the committee to recommend the repeal of the sinking fund provisions and their replacement with a provision that would assign necessary debt reporting functions to the state treasurer.

Mr. Kauffman described the duties and functions of the treasurer as including issuing highway general obligation debt and lease-appropriation debt for the departments of transportation and public safety, all payable from highway user receipts, as well as major new transportation infrastructure debt that is secured by and payable from federal highway grant receipts. He

continued that the treasurer also issues lease-appropriation debt payable from the general revenue fund for state office buildings, correctional and juvenile detention facilities, cultural and sports facilities, mental health and developmental disability facilities, and parks and recreational facilities. He said the treasurer also serves as a conduit issuer for a number of bond programs that are not directly secured by State revenue.

Additional Materials

In addition to the above presentations, both Mr. Keen and Mr. Metcalf provided additional statements proposing a constitutional role for the treasurer in relation to state debt. On March 3, 2017, Mr. Keen reiterated the position of OBM that it would be appropriate to replace the sinking fund commission debt reporting provision with “a modernized provision assigning debt reporting functions to the treasurer.” He continued that such a provision would require:

[A] full and detailed report to the governor and General Assembly of the authorized, issued, matured, and outstanding direct obligations of the state (as defined in Section 17 of Article VIII), including a schedule of future debt service requirements for each purpose and type of obligation for which debt has been authorized, and that this report be issued within 60 days of the close of each state fiscal year.

On April 13, 2017, Mr. Metcalf submitted a statement asserting that the recommendation to repeal Sections 7 through 11 necessitates a new provision that would hold “statewide-elected officials accountable in the constitution for the management, reporting, and payment of the state’s debt.”

Discussion and Consideration

In reviewing this issue, the committee considered whether the treasurer’s reporting function should be created by statute, rather than through a constitutional provision. Because the sinking fund provisions being recommended for repeal set a precedent for constitutionalizing the role of the treasurer with regard to reporting state debt, committee members expressed that replacing those sections with a new section requiring the treasurer to continue that reporting duty would give the public confidence that this important function was being retained. Committee members additionally noted that Ohio’s strong reputation for managing its debt well would be supported by a provision embedding in the constitution a duty to report debt to the public, thus protecting the need for transparency. Committee members also expressed support for a provision that would provide sufficient specificity so that it would not be misinterpreted. The consensus of the committee was that the reporting duties of the treasurer as outlined in Article VIII, Section 9 could be adapted into a new provision that would both modernize past practice and incorporate current statutory requirements.

Proposed Language for a Constitutional Provision

The following language has been proposed in relation to a new constitutional section that would require the treasurer of state to continue to report on state debt.

Office of Budget and Management Proposal

This language was suggested by OBM in a memorandum from Mr. Keen dated March 3, 2017:

[A] full and detailed report to the governor and General Assembly of the authorized, issued, matured, and outstanding direct obligations of the state (as defined in Section 17 of Article VIII), including a schedule of future debt service requirements for each purpose and type of obligation for which debt has been authorized, and that this report be issued within 60 days of the close of each state fiscal year.

Treasurer of State Proposal

This language was suggested by the treasurer's office in testimony by Mr. Metcalf on March 10, 2016:

The issuance of all direct obligations of the state as defined in division (E)(3) of section 17 of this article shall be authorized by the General Assembly and a majority of the governor, treasurer of state, auditor of state, secretary of state, and attorney general, and it shall be the duty of the treasurer of state to issue, maintain, and ensure the timely payment of interest and redemption of principal on all such direct obligations. The treasurer of state shall annually make a full and detailed report to the governor and General Assembly of the authorized, issued, matured, and outstanding direct obligations of the state as defined in division (E)(3) of section 17 of this article.

Commission Counsel Revision

This language is a revision of the above proposals by Shari L. O'Neill, interim executive director and counsel to the Commission:

Within 60 days of the close of each state fiscal year, the treasurer of state shall make a full and detailed report to the governor and General Assembly of the authorized, issued, matured, and outstanding direct obligations of the state as defined in Section 17 of this article, including a schedule of future debt service requirements for each purpose and type of obligation for which debt has been authorized.

Next Steps

Although it is not likely that the committee will have sufficient time to formalize any recommendation it might wish to make, it is hoped that this memorandum will assist the committee and any future deliberative body wishing to consider the role of the state treasurer in determining whether the Ohio Constitution should include a debt reporting duty for the treasurer.



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MEMORANDUM

TO: Chair Douglas Cole, Vice-chair Karla Bell,
and Members of the Finance, Taxation, and
Economic Development Committee

FROM: Shari L. O'Neill, Interim Executive Director and Counsel

DATE: May 11, 2017

RE: Status of the Committee's Review

At its April 13, 2017 meeting, the committee requested that staff provide a brief overview of the committee's previous consideration of the topics assigned to it.

State Debt and Economic Development

The committee has not resolved how it wishes to address remaining sections of Article VIII, specifically, Sections 4, 6, and 13, relating to the use of state debt for public and private economic development purposes; Section 5, which is a prohibition on the state assuming the debts of political subdivisions or corporations; Sections 14 and 16 relating to the use of state debt for housing programs; Section 15 concerning the development of coal technology; and Section 17, which is a limitation on the issuance of obligation debt.

The committee has heard several presentations relating to the public/private economic development arrangements related to Sections 4, 6, and 13, such as the JobsOhio program:

*Scott J. Ziance, Attorney
Vorys Law Firm*

On September 12, 2013, the committee heard a presentation titled "Public-Private Partnerships for Economic Development under the Ohio Constitution," presented by Scott Ziance, and attorney with the Vorys Law firm. Mr. Ziance's presentation focused on how Article VIII, Sections 4, 6, and 13, and courts' interpretation of those sections, related to economic

development projects such as transportation projects, TIF revenue bonds, and local grant programs. Mr. Ziance suggested issues for the committee to consider, including that Article VIII, Section 13 does not address the joint shareholder issue; that the state cannot lend credit for operating capital; and whether the state's full faith and credit should be expanded.

Paul L. Toth, Jr.
President and CEO
Toledo/Lucas County Port Authority

On November 14, 2013, Paul Toth presented on the history of the Toledo/Lucas County Port Authority, emphasizing particularly its place in Ohio history. Mr. Toth described the port authority's powers as a public entity and explained its role in economic development. He said his agency is challenged by the constitution's restrictions on public-private partnerships. He advocated for the committee to consider allowing limited investment in corporations within the constitution. Mr. Toth stated that Ohio has a competitive advantage over other states in finding creative means for funding, and that no other state does this.

Lisa Patt-McDaniel
Director of Community Development
Ohio Capital Corporation for Housing

Also on November 14, 2013, the committee heard from Lisa Patt-McDaniel, who stated three issues that the committee could address: 1) the ability of the state to have maximum flexibility in financing; 2) permission for local government to make loans for economic development purposes; and 3) multiple local government jurisdictions.

Dale Oesterle, Professor of Law
Moritz College of Law, Ohio State University

On December 12, 2013, Professor Dale Oesterle presented to the committee on "Financial Limits in Constitutions." With regard to public/private economic development programs, Prof. Oesterle indicated that governments can be an engine of economic development, but that the state should take precautions such as using fair rules with few exceptions, avoiding targeted grants to specific parties, and placing constitutional limitations on state aid to private parties. Prof. Oesterle described the various loopholes that may be used to circumvent limits, and recommended changes to the constitution that would clean up obsolete text on financial limits and support the existing financial limits that close loopholes.

Gregory W. Stype
Squire Patton Boggs (US) LLP

On June 9, 2016, the committee heard from Greg Stype, who represents the Ohio Public Facilities Commission (OPFC) as bond counsel. Among other topics, Mr. Stype touched on Sections 4, 6, and 13 as they relate to public/private economic development arrangements.

Mr. Stype said Sections 4 and 6 limit the power of the state and local governments to lend aid in credit or to become a joint actor with private enterprise, providing a history of those sections. He noted that Section 13 allows the issuance of industrial development bonds, providing that bonds can be issued and loans made for projects for industry, commerce, distribution, and research, with an important proviso that monies raised by taxation may not be obligated or pledged to the payment of those bonds. He said the amendment is designed to allow industrial development bond financing to convert federal tax benefits to the projects, but not to commit state tax dollars.

Mr. Stype noted exceptions to the restrictions in Sections 4 and 6, including programs for loans being made and payments received back in circumstances where there is a large and predictable revenue stream that can be leveraged through bonds and loans made, with an example being the Ohio Turnpike. As an example of a project for which bonds are issued under Section 13, Mr. Stype said there are bonds that have federal tax benefits for air and water pollution control at private industrial facilities. He said those bonds are going to be repaid by those companies, but the bonds could not be issued absent Section 13. Mr. Stype said, generally, if a project is in the service of a public purpose and the state taxing power is not being exposed to risk, then a project has Section 13 ramifications.

Mr. Stype said the state is prohibited from being a joint owner, but the practice has been for the state to get the loan for the revitalization project and partner with local communities. He noted that owners of “brownfield” sites that require revitalization cannot qualify for state assistance if they are the ones who created the dirty site; rather, it is the subsequent owner who qualifies for state assistance.

Mr. Stype noted the last set of exceptions to Sections 4, 5, and 6, are found in Section 2p, the “Third Frontier Amendments,” that were originally adopted in 2005, and extended in 2010. He said Third Frontier projects are those for which there is state authorization to issue general obligation bonds to fund research and development, and for sites and facilities for support of Ohio industry, commerce, research, distribution, and development. He said these moneys were invested in ways that allowed private industry to be part of the picture, so there had to be an exception to Sections 4 and 6. He said, with a couple of exceptions, all bond issues are subject to General Assembly authorization and are often subject to limitations in terms of the amount that can be issued in a given year, outstanding, or in total, or are subject to the five percent debt service limitation.

Mr. Stype reviewed relevant case law holding that Sections 4 and 6 allow the state to contract with private vendors to implement an automobile e-check system because hiring a private vendor is not same as joining together in enterprise. He noted a case holding the state can appropriate moneys out of the general fund, even where the state could not issue debt for that purpose, because a current appropriation is not a long-term commitment of the state’s financial resources and not a debt. Regarding public purpose themes, he said another case examined the purpose of public education, while other cases dealt with health care and a stadium construction project.

Mr. Stype said some cases recognize that if the goal is to accomplish a public purpose through nonprofit corporations, Sections 4 and 6 do not prevent those kinds of arrangements. Mr. Stype said an early case standing for that principle held the state could give money to agricultural fairs

and a 1983 case involving housing for the homeless determined that it is appropriate for a political subdivision to contract with a nonprofit corporation to provide services to the inhabitants of the political subdivision that could be provided by the municipality itself as a public service.

Mr. Stype's presentation also touched on Sections 5, 14, 15, and 16.

Mr. Stype said Section 5, which restricts the state from assuming the debts of any political subdivision unless the debt was created for the purpose of addressing civil unrest, is often overlooked. He further noted the constitution does not stop with Sections 4, 5, and 6 in addressing lending aid in credit because express exceptions have been put in place. Mr. Stype identified only two cases interpreting Section 5 that upheld the financing arrangements as falling outside the prohibition created by Section 5.

Regarding Section 14, Mr. Stype said Section 14, authorizes loans for housing in Ohio, an amendment that was driven by a 1976 Ohio Supreme Court decision concluding that, despite Section 13, the words "industry, commerce, distribution, and research" did not encompass housing, so that if voters wanted to create that benefit the constitutional section specifically would need to indicate housing.

Mr. Stype described Section 15, adopted in 1985, as authorizing the state to issue bonds to fund loans for coal research and development purposes, allowing the state to share in the returns from the bonds. Mr. Stype said Section 16, adopted in 1990, broadened the loans-to-lenders regime that existed under Section 14, opening the door to a wider variety of housing loans.

Taxation

Eleven sections in Article XII cover restrictions and limitations on certain types of taxes and tax rates, authority to impose certain taxes, and requirements for tax apportionment. The committee has heard two presentations related to this topic.

Thomas M. Zaino and Joanne Limbach
Former State Tax Commissioners

On July 11, 2013, Thomas Zaino and Joanne Limbach, both former state tax commissioners, provided a comprehensive overview of the history of constitutional sections related to the state taxation system. Significantly, they identified areas of concern relating to sections in Article XII, including the appropriateness of property tax exemptions contained in Section 2, whether the commercial activity tax contained in Section 3 reflects sensible policy, and whether Section 9's requirement that a set percentage of tax revenue be returned to local government is still necessary.

Jon Honeck
Director of Public Policy and Advocacy
Center for Community Solutions

On September 11, 2014, the committee heard from Jon Honeck, who urged the committee to recommend a provision that would improve the transparency and accountability of certain tax preferences. He said the state currently has over 100 credits, exemptions, and deductions in its tax code, collectively known as tax expenditures because they sometimes substitute for line item appropriations that would accomplish the same purpose. He observed that the design of tax expenditures has become more sophisticated over time, with the result that there are many types of tax credits available to qualified taxpayers.

He said the growing use of tax credits creates a need to consider their role in the state budget. Citing that Article II, Section 22's restriction on drawing money from the treasury except in pursuance of a specific appropriation made by law, he said the state requires the appropriation of all tax refunds through two agency line items: the tax department's budget, and the treasurer of state's budget. He said because these line items merged the proceeds from various tax sources and do not allow policymakers or the public to identify specific amounts of money that are needed to meet fiscal obligations arising out of the use of a particular credit, the practice inhibits transparency of the state budget. He said because the state commits resources over a period of years in a carry-forward, or allocates resources beyond the taxpayer's liability in a refundable credit, the costs need to be identifiable in the budget bill.

Mr. Honeck proposed the following provision be added to the constitution:

Any tax credit that is refundable or allows a carryforward of an unused portion of the credit to a new tax year is subject to Section 22, Article II, and its cost shall be accounted for in the general revenue fund of the state, unless its sole purpose is to reconcile payments made by individuals and pass-through entities in which the individuals have an ownership share.

He said this change would make it clear that the resources necessary to satisfy claimants are available to be reallocated to other purposes as circumstances change. He further asserted that if the general revenue fund is used, it is more likely that policymakers and the public will take a close look at these credits and evaluate their effectiveness.

Corporations

The committee has not heard any presentations or held discussion on Article XIII, concerning corporations. The article contains a variety of loosely related sections that create and describe the state's authority with regard to private corporations, banks, and municipal and village corporations.

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Finance, Taxation, and Economic Development Committee

Planning Worksheet (Through April 2017 Meetings)

Article VIII – Public Debt and Public Works

Sec. 1 – Public debt; limit of deficit spending by state (1851)

Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	4.14.16	5.12.16	5.12.16	6.9.16	6.9.16	9.8.16	9.8.16

Sec. 2 – State may incur debts for defense or to retire outstanding debts (1851)

Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	4.14.16	5.12.16	5.12.16	6.9.16	6.9.16	9.8.16	9.8.16

Sec. 2b – Adjusted compensation for service in World War II; World War II veterans’ bonuses (1947)

Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16	6.9.16	6.9.16	9.8.16	9.8.16

Sec. 2c – Construction of state highway system (1953)

Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16	6.9.16	6.9.16	9.8.16	9.8.16

Sec. 2d – Korean War veterans’ bonus (1956)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16	6.9.16	6.9.16	9.8.16	9.8.16

Sec. 2e – Providing means for securing funds for highway and public building construction (1955)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16	6.9.16	6.9.16	9.8.16	9.8.16

Sec. 2f – Authorizing bond issue to provide school classrooms, support for universities, for recreation and conservation and for state buildings (1963)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16	6.9.16	6.9.16	9.8.16	9.8.16

Sec. 2g – Authorizing bond issue or other obligations for highway construction (1964)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16	6.9.16	6.9.16	9.8.16	9.8.16

Sec. 2h – Bond issue for state development (1965)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16	6.9.16	6.9.16	9.8.16	9.8.16

Sec. 2i – Capital improvement bonds (1968)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16	6.9.16	6.9.16	9.8.16	9.8.16

Sec. 2j – Vietnam conflict compensation fund (1973)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16	6.9.16	6.9.16	9.8.16	9.8.16

Sec. 2k – Issuance of bonds for local government public infrastructure capital improvements (1987)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16	6.9.16	6.9.16	9.8.16	9.8.16

Sec. 2l – Parks, recreation, and natural resources project capital improvements (1993)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	11.10.16	N/A	11.10.16	12.15.16	12.15.16	3.9.17	3.9.17

Sec. 2m – Issuance of general obligations (1995)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	11.10.16	N/A	11.10.16	12.15.16	12.15.16	3.9.17	3.9.17

Sec. 2n – Facilities for system of common schools (1999)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	11.10.16	N/A	11.10.16	12.15.16	12.15.16	3.9.17	3.9.17

Sec. 2o – Issuance of bonds and other obligations for environmental conservation and revitalization purposes (2000)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	11.10.16	N/A	11.10.16	12.15.16	12.15.16	3.9.17	3.9.17

Sec. 2p – Issuance of bonds for economic and educational purposes and local government projects ((2005, 2010)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	11.10.16	N/A	11.10.16	12.15.16	12.15.16	3.9.17	3.9.17

Sec. 2q – Issuance of bonds for continuation of environmental revitalization and conservation (2008)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	11.10.16	N/A	11.10.16	12.15.16	12.15.16	3.9.17	3.9.17

Sec. 2r – Persian Gulf, Afghanistan, and Iraq conflicts compensation fund (2009)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	11.10.16	N/A	11.10.16	12.15.16	12.15.16	3.9.17	3.9.17

Sec. 6 – Counties, cities, towns, or townships, not authorized to become stockholders, etc.; insurance, etc. (1851, am. 1912)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 7 – Sinking fund (1851)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	4.14.16	5.12.16	5.12.16	6.9.16	6.9.16	9.8.16	9.8.16

Sec. 8 – The commissioners of the sinking fund (1851, am. 1947)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	4.14.16	5.12.16	5.12.16	6.9.16	6.9.16	9.8.16	9.8.16

Sec. 9 – Biennial report of the sinking fund commissioners (1851)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	4.14.16	5.12.16	5.12.16	6.9.16	6.9.16	9.8.16	9.8.16

Sec. 10 – Application of sinking fund (1851)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	4.14.16	5.12.16	5.12.16	6.9.16	6.9.16	9.8.16	9.8.16

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OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

2017 Meeting Dates

June 8

July 13

August 10

September 14

October 12

November 9

December 14