

Ohio Constitutional Modernization Committee – March 10, 2016 Testimony

Chairman Cole and members of the Finance, Taxation, and Economic Development Committee: good afternoon. Thank you for the opportunity to once again appear before you on behalf of publicly-elected State Treasurer Josh Mandel. As you may recall, I provided testimony before this Committee on May 8, 2014 and on March 12, 2015. It is an honor to appear before this Committee.

Today, I will address the Committee's recent Report and Recommendation and the proposed addition to the constitution, Article VIII, Section 2t. The current Recommendation, through omission, lacks public accountability initially adopted by Ohioans in the Constitution for general obligation bonds. I am submitting a revised recommendation that retains public accountability over general obligation borrowing. My suggested change adds a few lines to the recommendation currently before the committee.

In Ohio's representative democracy, accountability to the citizens of Ohio is fundamental. Public accountability through the ballot box is the essence of Ohio's government. Public accountability is the watchdog of integrity. Public accountability is the social contract through which government maintains the trust of its citizens. Public accountability is the mechanism through which the citizens of Ohio hold their government accountable.

Public accountability is especially important when it comes to taxes. The citizens of Ohio deserve public accountability over how taxes are imposed on them and how tax money is spent. This is relevant because general obligation bonds are repaid with tax dollars. So, those individuals who decide how bond money is spent and how much we borrow should be directly accountable to Ohio taxpayers. Direct accountability is even more important when you consider the significance and length of the commitment imposed on Ohio taxpayers by general obligation bonds.

A general obligation debt is a significant, long term commitment by Ohio taxpayers. A general obligation debt can bind Ohio taxpayers for decades with an unlimited obligation to repay the debt. When the State of Ohio issues general obligation bonds, the Constitution says that the state pledges to repay the debt with the full faith and credit, revenue, and taxing power of the state. Further, the constitution requires that the state levy enough taxes and revenue to pay the debt. And a general-assembly appropriation is not required to make payments. Finally, a state cannot file bankruptcy.

Said another way, once the state issues a general obligation debt, the state must raise enough money to pay back the principal and interest. This could mean raising taxes, raising fees, or raising fines. General obligation debt is also a long term commitment, up to 25 years in the case of section 2t included in the recommendation.

In other words, a general obligation debt imposes a 25-year mortgage on Ohio taxpayers and requires the state to raise taxes to make the payments. Further, Ohio taxpayers cannot reduce or discharge general obligation debt. I hope that I have conveyed to the committee the great responsibility that lies with those who make these decisions.

Additionally, the constitution currently entrusts elected executive officials with the necessary and important task of repaying the state's debt, which is currently the treasurer of state. The market would significantly penalize Ohio taxpayers if we failed to repay our debts, which would result in significantly negative financial consequences to the state and the state's local governments by increased borrowing rates. These higher interest rates would be paid on the back of Ohio taxpayers. Any recommendation that would take away this duty from publicly-elected executives is unacceptable because it would remove direct accountability for this important responsibility.

The publicly-elected treasurer of state currently issues some general obligation debt, interfaces with the rating agencies and, importantly, pays all the principal and interest. My change to the recommendation would keep the publicly-elected treasurer of state paying principal and interest and ensure that the publicly-elected treasurer administers the direct obligations of the state, whether general obligations or obligations subject to legislative appropriation.

Importantly, I want to recognize that the current recommendation does contain some safeguards, such as limiting the amount of general obligation debt, restricting the purposes for which money can be borrowed, and requiring that the general assembly pass laws permitting the issuance of the debt.

However, the current recommendation is gravely deficient because it does not enshrine in the constitution direct accountability for Ohio taxpayers over the individuals making these significant decisions and carrying out these vital functions. Any new constitutional authority for general obligation debt must also include a constitutional process for the approval of new general obligation debt that involves not only the legislature, but also the auditor of state, the attorney general, the governor, the treasurer, and the secretary of state because these individuals are directly accountable to Ohio taxpayers. Without a constitutional requirement for the approval of state-wide executive officers, the current statutory approval process would apply. The current statutory process dilutes the constitution's original checks and balances by allowing the non-elected Director of Budget and Management to vote on the issuance of general obligation debt.

You may be asking yourself why the current recommendation does not include these safeguards. I do not know why it was recommended to you, especially after I testified about the importance of direct executive accountability. But I can see the temptation of power without accountability. If you're the one with the power, who wouldn't want that? However, if you are the voter, the taxpayer, the citizen, is that what you would want? Is that what you would choose? How would you feel about a faceless, nameless bureaucrat making significant decisions affecting your life? I think about calling technical support for my home computer. I can't speak to a real person. I

don't understand the words they are using. I don't feel like they really care about my problems. I have no control over the situation. No choice.

Fortunately for each of you, you get to make this choice. Each of you is on this committee to represent the Ohio citizens who might have otherwise participated in a constitutional convention. In casting your vote, envision yourself in their shoes. You might be wearing the soiled boots of a plumber or construction worker. You might be wearing the Velcro shoes of a retiree or kindergartener. You might be wearing the tennis shoes of a suburban parent or the cowboy boots of a farmer. You are voting for Ohio and whether these people will be able to hold individuals accountable for taxing and spending decisions. I believe in public accountability. I am hopeful it is the path you will choose.

A vote in favor of the recommendation as presented would strike at the heart of Ohio's dedication to taxation through representation. In contrast, a vote for my simple change would codify accountability in the constitution and remove non-elected representation. This is not complicated and any statement otherwise is simply an attempt to distract or confuse. The individuals making decisions for the public are either accountable or they are not.

I strongly urge you to add my suggested language to proposed section 2t before any further consideration of the recommendation by this committee. Any constitutional expansion of general obligation debt should include constitution safeguards ensuring direct accountability for Ohio taxpayers over the individuals making significant government decisions.

Seth Metcalf  
Deputy Treasurer & Executive Counsel  
Ohio Treasurer Josh Mandel

## **Attachment A**

Article VII. Section [ ].

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.